DOCUMENT RESUME

ED 382 553 SO 025 062

| | |
|---|---|
| TITLE | Antidote: Civic Responsibility. Utah Law. |
| INSTITUTION | Phi Alpha Delta Law Fraternity International, Washington, DC. |
| SPONS AGENCY | Department of Justice, Washington, D.C. Office of Juvenile Justice and Delinquency Prevention. |
| PUB DATE | 93 |
| CONTRACT | 93-JS-CX-005 |
| NOTE | 13p.; For related lesson materials, see ED 372 024. For other state supplements, see SO 025 022-066. |
| AVAILABLE FROM | Phi Alpha Delta Public Service Center, 1511 K Street, N.W., Suite 611, Washington, DC 20005. |
| PUB TYPE | Guides - Classroom Use - Instructional Materials (For Learner) (051) -- Guides - Classroom Use - Teaching Guides (For Teacher) (052) |
| EDRS PRICE | MF01 Plus Postage. PC Not Available from EDRS. |
| DESCRIPTORS | *Citizenship Education; *Constitutional Law; *Criminal Law; Drug Education; *Drug Legislation; High Schools; Illegal Drug Use; Intermediate Grades; Junior High Schools; *Law Related Education; Middle Schools; Resource Materials; Social Studies; State Legislation |
| IDENTIFIERS | Phi Alpha Delta Law Fraternity; *Utah |

ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Utah state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students. Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

**********
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
**********

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
✓ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL IN OTHER THAN PAPER COPY HAS BEEN GRANTED BY

Jack C. Hanna

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)"

ED 382 553

# Antidote: Civic Responsibility

## Utah Law

Phi Alpha Delta Public Service Center
• 1511 K Street, NW • Suite 611 • Washington, DC 20005•
• 202-638-2898 • fax 202-638-2919 •

BEST COPY AVAILABLE

SO 025 062

## Lesson 1

**1. Has Aimee violated any state laws? Have her parents?**

Aimee and Carrie's parents may be in violation of Utah law for leaving Carrie under Aimee's supervision. It is within the definition of criminal child abuse for a parent to cause or permit another to inflict physical injury upon a child either intentionally and knowingly, recklessly or with criminal negligence. Utah Code Ann. §76-5-109 (Supp. 1993). Arguably, if Carrie was left infrequently for only a short time and no harm was done, the parents would not be in violation of the law. If, however, the behavior was routine and Carrie, for example, was given aspirin while she had the measles (see definition of Reye's Syndrome), the parents may be criminally accountable.

**2. Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

No. It is unlawful for any person under 21 to purchase, possess or consume alcoholic beverages. Utah Code Ann. §32A-12-209 (Supp. 1993).

**3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

Maria's provision of information to her roommates, while seemingly harmless, puts her in violation of Utah law. She is, by identifying a dealer to her roommates, conspiring to possess marijuana in violation of Utah Code Ann. §58-37-8 (1992).

**4. Have Adam and Alex broken any laws other than those against drinking and fighting?**

Since Joe died while fighting with the twins, they will be held responsible for Joe's death. They could be charged with manslaughter: recklessly causing the death of another (Utah Code Ann. §76-5-205 (1992)), negligent homicide: causing the death of another as a result of criminal negligence (Utah Code Ann. §76-5-206 (1992)), or criminal homicide: intentionally, knowingly, recklessly, or criminally negligently causing the death of another (Utah Code Ann. §76-5-201 (1992)). Alternatively, they could be charged with a lesser offense such as assault. Assault occurs when one attempts with unlawful force of violence to do bodily injury or acts with unlawful force or violence and causes bodily injury to another. Utah Code Ann. §76-5-102 (1990).

**5. Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?**

TJ is violating Utah's prohibition against alcohol consumption and possession by persons under 21. Utah Code Ann. §32A-12-209 (Supp. 1993).
Carlos is violating Utah law if he is at all responsible for furnishing or supplying an alcoholic beverage to TJ, a person under

21. Utah Code Ann. §32A-12-203 (1992).

**6. Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?**

Dr. Melrose is dispensing drugs in bad faith, for no medical reason. Thus, he is violating Utah's prohibition against licensed practitioners knowingly and intentionally prescribing or administering dosages of controlled substances in excess of medically recognized quantities necessary to treat ailments, maladies or conditions of the ultimate user. Utah Code Ann. §58-37-8(1992). Alternatively, he is violating a more general prohibition against knowingly and intentionally dispensing a controlled substance. Id. at (1)(a)(i).

**.7. Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle has violated Utah's prohibition against knowingly and intentionally possessing or using controlled substances not obtained from a valid prescription or order from a practitioner in the course of professional practice since she took pills from others' prescriptions. Utah Code Ann. §58-37-8(1992). Additionally, it is unlawful in Utah for a person to obtain or exercise unauthorized control over the property of another with a purpose to deprive him thereof. Utah Code Ann. §76-66-404 (1992). Thus, Danielle's taking of pills from others' prescriptions is a violation of this law.

**8. Is Renee breaking any law even though she is not selling drugs herself?**

Renee is violating Utah Code Ann. §58-37-8(1) (1992) by distributing a controlled substance and/or by possessing a controlled substance with the intent to distribute. Since her activities occur in a public park she is also violating Utah Code Ann. §58-37-8(5)(a)(v) (1992).

**9. Did Jim violate any law other than those regarding controlled substances?**

It is unlawful in Utah for a person to willfully or knowingly introduce a communicable or infectious disease into any county, municipality or community. Utah Code Ann.§26-6-5 (1993). If giving AIDS to one person is considered introducing it into the community, then Jim has violated this law.

**10. Has the bartender or owner of Bulldog's Bar & Grill violated any law?**

Yes. It is unlawful to sell, offer to sell, or otherwise furnish or supply any alcoholic beverage to a person who is apparently under the influence of alcoholic beverages or drugs. Utah Code

Ann. § 32A-12-204 (1992). If the server should have known the person served was under the influence of alcohol or drugs, the serve will also be held responsible. Id. Both the bartender and owner of Bulldog's will be held responsible for serving Su.

Additionally, the bartender and owner could be charged under Utah Code Ann. § 32A-12-216 (1992) for permitting another person to become intoxicated or allowing an intoxicated person to consume alcohol in any premises of which the person is the owner, tenant, or occupant.

Lesson 2

## CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES

## UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

### 1981-1990 Ten Year Trend

**Arrests for Drug Abuse Violations**

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

**Liquor Law Violations**

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

### Criminal Victimization in the United States, 1990 A National Crime Victimization Survey Report, February, 1992

**Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:**

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

## Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

| DRUG | SCHEDULE |
|---|---|
| heroin | schedule 1 |
| beer | not a scheduled drug |
| vodka | not a scheduled drug |
| nitrate | not a scheduled drug |
| amphetamines | schedule 3 |
| caffeine | not a scheduled drug |
| marijuana | schedule 1 |
| crack | schedule 2 |
| scotch | not a scheduled drug |
| MSG | not a scheduled drug |
| cocaine | schedule 2 |
| glue | not a scheduled drug |

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

| SCHEDULE | MAX. PRISON | MAX. FINE | MAX. TOTAL |
|---|---|---|---|
| schedule 1 | 15 years | $25,000 | 15yrs + $25,000 |
| schedule 2 | 15 years | $25,000 | 15yrs + $25,000 |
| schedule 3 | 5 years | $15,000 | 5yrs + $15,000 |
| schedule 4 | 3 years | $10,000 | 3yrs + $10,000 |
| schedule 5 | 1 year | $ 5,000 | 1yr + $ 5,000 |
| unscheduled drug | n/a | n/a | n/a |

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

| States | Heroin | Cocaine | Crack | Marijuana | Amphetamine |
|---|---|---|---|---|---|
| Alabama | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| Alaska | sch 1A | sch 2A | sch 2A | sch 3A | sch 4A |
| Arizona | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Arkansas | sch 1 | sch 2 | sch 2 | sch 1 | not listed |
| California | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Colorado | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Connecticut | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| Delaware | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| D.C. | sch 1 | sch 2 | sch 2 | sch 2 | sch 2 |
| Florida | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Georgia | sch 1 | sch 2 | sch 2 | sch 1[1] | sch 2 |
| Hawaii | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Idaho | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Illinois | sch 1 | sch 2 | sch 2 | listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq | sch 2 |
| Indiana | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Iowa | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Kansas | sch 1 | sch 2 | sch 2 | sch 1 | sch 1 |
| Kentucky | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Louisiana | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Maine[2] | sch W | sch W | sch W | sch W & Z | sch W |
| Maryland | sch 1 | sch 2 | sch 2 | sch 1 | sch 1 |
| Massachusetts[3] | class A | class B | class B | class D | class B |
| Michigan | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Minnesota | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Mississippi | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Missouri | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Montana | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

| States | Heroin | Cocaine | Crack | Marijuana | Amphetamine |
|---|---|---|---|---|---|
| Nebraska | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Nevada[4] | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| New Hampshire | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| New Jersey | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| New Mexico | sch 1 | sch 2 | sch 2 | sch 1 & 2 | sch 2 |
| New York | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| North Carolina | sch 1 | sch 2 | sch 2 | NC has a sixth schedule which incl. marijuana | sch 2 |
| North Dakota | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Ohio | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Oklahoma | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Pennsylvania | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Puerto Rico | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| Rhode Island | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| South Carolina | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| South Dakota | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Tennessee | sch 1 | sch 2 | sch 2 | sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act | sch 2 |
| Texas | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Utah | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Vermont | sch 1 | sch 2 | sch 2 | sch 1 | sch 3 |
| Virginia | sch 1 | sch 2 | sch 2 | not listed, but liquid marijuana or hashish oil is listed as sch 1 | sch 2 |
| Washington | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| West Virginia | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
| Wisconsin | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.



9 BEST COPY AVAILABLE

| States | Heroin | Cocaine | Crack | Marijuana | Amphetamine |
|---|---|---|---|---|---|
| Wyoming | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |

| OFFENSE/SUBSTANCE | SENTENCE |
|---|---|
| First Offense: Cocaine - Possession With Intent To Distribute - 5 kg | • imprisonment for 1-15 years with possibility of<br>• fine not to exceed $10,000 |
| First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin | • imprisonment for 1-15 years with possibility of<br>• fine not to exceed $10,000 |
| First Offense: Codeine - Possession - 200 mg | • imprisonment for up to 6 months with the possibility of<br>• fine not to exceed $1000 |
| Second Offense: Marijuana - Possession - 50 kg | • imprisonment for at least 5 years with the possibility of<br>• fine not to exceed $10,000 |
| Third Offense - Methamphetamine - Possession - 100 g | • imprisonment not to exceed 5 years with the possibility of<br>• fine not to exceed $5000 |

Cite: UCA §58-37-8.

Current Federal Penalties:

**Group 1 and Group 2:** . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

**Group 3:** . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

**Group 4:** . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

**Group 5:** . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §41-6-44 it is unlawful for any person under the influence of alcohol or with a blood alcohol concentration of 0.08 or more to operate a motor vehicle.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

There is no distinction between the two offenses under Utah law.

4. What are the penalties for being convicted of DWI? DUI?

Section 41-6-44 mandates the following penalties:

| CONVICTION | PENALTY |
|---|---|
| first | • license suspended for 90 days, and<br>• participation in an educational and assessment series at a licensed rehabilitation facility, and<br>• either: imprisonment for 48 to 240 hours or community service for 24 to 50 hours |
| second (within 6 years) | • license suspended for 1 year, and<br>• participation in an educational and assessment series at a licensed rehabilitation facility, and<br>• either: imprisonment for 240 to 720 consecutive hours or community service for 80 to 240 hours |
| third (within 6 years) | • license suspended for 1 year, and<br>• participation in an educational and assessment series at a licensed rehabilitation facility, and<br>• fine of not less than $1000, and<br>• imprisonment for 720 to 2160 consecutive hours |
| fourth & subsequent (within 6 years) | • license suspended for 1 year, and<br>• participation in an educational and assessment series at a licensed rehabilitation facility, and<br>• fine of not less than $1000, and<br>• imprisonment for 720 to 2160 consecutive hours, and<br>• individual is considered a third degree felon |

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §41-6-44.10 a person who drives on the roads of Utah is deemed to have given consent to a breath test. Refusal to take the test can lead to the revocation of one's license for 30 days.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

Under §41-6-44 if a person has 0.08 or more blood alcohol concentration it is inferred that he/she is under the influence of alcohol.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. Utah does not differentiate between individuals over 21 and under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

Section 41-6-44.20 states that no one may keep, carry, possess, transport or allow another to keep, carry, possess or transport in the passenger compartment, including glove compartment, of a motor vehicle, when the motor vehicle is on any highway, any container holding an alcoholic beverage that has been opened, the seal broken, or partially consumed. Additionally, under §32A-12-209 it is unlawful for any person under 21 to possess alcohol.



BEST COPY AVAILABLE

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

| 0.00 BAC | 0.01 BAC | 0.02 BAC | 0.04 BAC | 0.05 BAC | 0.06 BAC |
|---|---|---|---|---|---|
| AZ (<21) | NJ (<21) | ME (<21) | RI (<21) | CA (<18) | GA (<18) |
| NC (<19) | | MD (<21) | NH (<21) | NM (<18) | |
| OR (<21) | | OH (<18) | | | |
| UT (<21) | | VT (<18) | | | |
| WI (<18) | | | | | |

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.